

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

AVISTUS FOBATE,

Plaintiff,

v.

R.J. SMITH, *et al.*,

Defendants.

Case No. 2:22-cv-01948-ART-VCF

ORDER

I. **DISCUSSION**

The Court issues this order on its own initiative. On July 18, 2023, the Court granted Plaintiff Avistus Fobate's ("Plaintiff") Motion for the Court to Issue a Rule 45 Subpoena Duces Tecum<sup>1</sup> to the NDOC's Employee Custodian of Records. (ECF No. 13.) In that order, the Court directed the Office of the Attorney General of the State of Nevada ("Attorney General's Office") to file a notice advising the Court and Plaintiff whether it accepted service of the subpoena on or before July 25, 2023. (*Id.* at 1-2.) In addition, the Court stated, if the Attorney General's Office accepted service, it shall respond to Plaintiff's subpoena within 30 days of the entry of its notice accepting service. (*Id.*) On July 25, 2023, the Attorney General's Office filed a notice with the Court stating that it entered a limited notice of appearance for the purpose of accepting service of the subpoena (ECF No. 12) to obtain the names and addresses of certain correctional officers pursuant to the Court's order at ECF No. 13. (ECF No. 15.) However, it has been more than 30 days since the Attorney General's Office has accepted service of the subpoena, and it has not responded to it within the Court-ordered deadline. The Court will, however, allow the Attorney General's Office **seven days** from the date of this order to respond to Plaintiff's subpoena.

///

---

<sup>1</sup> In the screening order, the Court instructed Plaintiff that he could file a Rule 45 subpoena duces tecum to attempt to identify two John Does. (ECF No. 10 at 7-8.)

## CONCLUSION

For the foregoing reasons, it is ordered that the Attorney General's Office shall respond to Plaintiff's subpoena (ECF No. 14) within **seven days** from the date of entry of this order.

DATED THIS 12th day of September 2023.

  
UNITED STATES MAGISTRATE JUDGE